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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,085	08/17/2006	Tadeusz Wiecekowski	257.804	9916
37004	7590	05/06/2009		
POWER DEL VALLE LLP 233 WEST 72 STREET NEW YORK, NY 10023			EXAMINER	
			JUSKA, CHERYL ANN	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			05/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/598,085

Applicant(s)

WIECKOWSKI, TADEUSZ

Examiner

Cheryl Juska

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed January 20, 2009, has been entered. Claims 1-4 have been amended as requested, while claims 5 and 6 have been cancelled. Thus, the pending claims are 1-4.
2. Said amendment is sufficient to withdraw the objections to the drawings and specification as set forth in sections 1 and 2 of the last Office Action (Non-Final Rejection mailed September 15, 2008). Additionally, said amendment is sufficient to withdraw the 112, 2nd rejections set forth in sections 2-9 of the last Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 is indefinite for the recitation "yarn made of wool with ca. 10% admixture of textile fabrics." Said recitation is unclear since yarns are not typically made of *fabrics*, but rather fibers or filaments. Claim 2-4 are rejected for their dependency upon claim 1.

6. Similarly, claim 4 is indefinite for the recitation “where part of threads of weft and/or warp are made of non-woolen fabrics.” Again, threads are not typically made of *fabrics*, but rather fibers or filaments.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 100 48 152 C1 issued to Klar.

Klar discloses a textile carpet floor covering comprising a wool nonwoven base layer (1) having pile yarn sections (3) formed in zones (English abstract and Figures 1-5). The pile yarns may be attached to a carrier layer (2), (7), or (9). The floor covering may also include a woven carrier layer (5). Note the wool nonwoven base layer corresponds to applicant's first layer, while woven carrier layers (2), (5), (7) and/or (9) correspond to applicant's second layer of a cloth or industrial fabric. The wool nonwoven base layer and the carrier layers with pile yarns (2), (7), or (9) may be joined together by adhesion or stitching while carrier layer (5) may be joined by a latex adhesive (4) or (11).

Hence, Klar teaches the invention of claims 1-3 with the exception that the wool nonwoven layer has a basis weight of 1100-1500 gsm. However, it would have been obvious to one skilled in the art to employ the wool nonwoven layer in the amount recited by applicant,

since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Thus, claims 1-3 are rejected as being obvious over the prior art.

Regarding claim 4, the reference fails to explicitly teach the wool layer is a woven layer with the inclusion of some non-woolen warps or wefts. However, woven fabrics made of wool and wool blends are well known in the art of textiles. Applicant is hereby given Official Notice of this fact. As such, it would have been readily obvious to a skilled artisan to substitute a woven wool fabric, especially a felted (i.e., milled) one, for a nonwoven wool fabric. Motivation to do so would be to improve dimensional stability of the flooring material since woven fabrics can provide enhanced dimensional stability over similar nonwoven fabrics. Therefore, claim 4 is also rejected as being obvious over the prior art.

[The examiner notes that the facts asserted to be common and well-known are capable of instant and unquestionable demonstration as being well-known. To adequately traverse such a finding, applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.]

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can

be reached at 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
Art Unit 1794